

NOTICES OF SUPPLEMENTAL PROPOSED RULEMAKING

After an agency has filed a Notice of Proposed Rulemaking with the Secretary of State's Office for *Register* publication and the agency decides to make substantial changes to the rule after it is proposed, the agency must prepare a Notice of Supplemental Proposed Rulemaking for submission to the Office, and the Secretary of State shall publish the Notice under the Administrative Procedure Act (A.R.S. § 41-1001 et seq.). Publication of the Notice of Supplemental Proposed Rulemaking shall appear in the *Register* before holding any oral proceedings (A.R.S. § 41-1022).

NOTICE OF SUPPLEMENTAL PROPOSED RULEMAKING

TITLE 6. ECONOMIC SECURITY

CHAPTER 3. DEPARTMENT OF ECONOMIC SECURITY UNEMPLOYMENT INSURANCE

[R08-356]

PREAMBLE

1. Register citation and date for the Notice of Rulemaking Docket Opening and the original Notice of Proposed Rulemaking:

Notice of Rulemaking Docket Opening: 14 A.A.R. 2042, May 23, 2008

Notice of Proposed Rulemaking: 14 A.A.R. 2032, May 23, 2008

<u>2. Section Affected</u>	<u>Rulemaking Action</u>
R6-3-1407	Amend

3. The statutory authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):

Authorizing statutes: A.R.S. §§ 41-1954(A)(1)(a) and 41-1954(A)(3)

Implementing statutes: A.R.S. §§ 23-772(B) and 23-727(D)

4. The name and address of agency personnel with whom persons may communicate regarding the rule:

Name:	Beth Broeker
Address:	Department of Economic Security P.O. Box 6123, Site Code 837A Phoenix, AZ 85005
	or
	Department of Economic Security 1789 W. Jefferson St., Site Code 837A Phoenix, AZ 85007
Telephone:	(602) 542-6555
Fax:	(602) 542-6000
E-mail:	bbroeker@azdes.gov

5. An explanation of the rule, including the agency's reasons for initiating the rule:

The Arizona Department of Economic Security administers the state Unemployment Insurance (UI) program, authorized under Titles II and IX of the Social Security Act, the Federal Unemployment Tax Act, and Arizona Revised Statutes Title 23, Chapter 4. A.R.S. § 23-772 requires that all base period employers be promptly notified when an individual files an initial claim for unemployment insurance. In conjunction with this statute, R6-3-1407 currently stipulates that the Department will mail a Notice to Employer to all base period employers, including the last employer, to notify these employers that a former employee has filed for unemployment insurance. R6-3-1407 further states that, if an employer returns a Notice within 10 days after the date of mailing with a signed statement of facts that may affect the claimant's eligibility for benefits or information on the issue of separation, the employer will be an interested party to any determination made on the supplied information.

The Department is currently developing a system that can transmit the Notice to Employer electronically. The new process will also allow the employer to respond to the Notice electronically. The proposed amendment will maintain the substance of the current language applicable to mailed notices, but will also allow the Department to transmit

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notices electronically. The new language also allows any employer who receives an electronic notice to respond electronically.

6. An explanation of substantial change which resulted in this supplemental notice:

The Department is filing this supplemental notice to amend erroneous statutory citations in the preamble of the Notice of Proposed Rulemaking. In item 2 of the Notice of Proposed Rulemaking, the Department identified the following as implementing statutes: A.R.S. §§ 23-733 and 23-733.01. The correct citations for this rulemaking's implementing statutes are: A.R.S. §§ 23-772(B) and 23-727(D).

7. A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:

Not applicable

8. The preliminary summary of the economic, small business, and consumer impact:

There will be a positive impact for both small and large businesses that participate in the program to receive and return Notices to Employers electronically. Electronic transmission should result in a savings on postage and handling. It will also provide the employer with an extra day or two to gather information and prepare a response.

There will be no impact on workers who apply for unemployment insurance benefits.

9. The name and address of agency personnel with whom persons may communicate regarding the accuracy of the economic, small business, and consumer impact statement:

Name: Beth Broeker
Address: Department of Economic Security
P.O. Box 6123, Site Code 837A
Phoenix, AZ 85005

or
Department of Economic Security
1789 W. Jefferson St., Site Code 837A
Phoenix, AZ 85007

Telephone: (602) 542-6555
Fax: (602) 542-6000
E-mail: bbroeker@azdes.gov

10. The time, place, and nature of the proceedings for the making, amendment, or repeal of the rule, or if no proceeding is scheduled, where, when, and how persons may request an oral proceeding on the proposed rules:

The Department does not plan to conduct an oral proceeding on the proposed rules unless a written request for an oral proceeding is submitted to the person named in item 4 within 30 days after this notice is published. The Department will accept written comments on the proposed rules for 30 days after the date of this publication. All written comments must be submitted to the person named in item 4.

11. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:

None

12. Incorporations by reference and their locations in the rules:

None

13. The full text of the rules follows:

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**CHAPTER 3. DEPARTMENT OF ECONOMIC SECURITY
UNEMPLOYMENT INSURANCE**

ARTICLE 14. ADMINISTRATION AND ENFORCEMENT

Section

R6-3-1407. Interested Parties ~~Parties~~ Party

ARTICLE 14. ADMINISTRATION AND ENFORCEMENT

R6-3-1407. Interested Parties ~~Parties~~ Party

A. ~~Interested parties~~ An interested party to a benefit or chargeability determination is or a chargeability determination are:

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1. A claimant whose right to benefits is affected.
 2. A claimant's most recent employing unit or employer, or any base period employer, if the employer:
 - a. Returns the Department's Notice to Employer, with a signed statement of facts ~~which~~ that may affect the claimant's eligibility for benefits, or information on the issue of separation from employment, within 10 business days ~~after the date the Department mails the Notice~~ of the date on the Notice to Employer the Department mails to the employer's address of record; or
 - b. Responds electronically to the Department's Notice to Employer within 10 business days of date the Department transmits the Notice to the employer's electronic address on file, provided the response contains:
 - i. A statement of facts that may affect the claimant's eligibility for benefits or information on the issue of separation from employment with the employer, and
 - ii. The name of the individual responsible for providing this information; or
 - ~~b-c.~~ Makes a bona fide offer of work to the claimant during a week for which the claimant files a claim for benefits, and sends the Department written notification of the offer within ~~5~~ five business days of the date the employer makes ~~of~~ the offer.
 3. The claimant's most recent employing unit or employer, when the claimant is disqualified on the basis of the claimant's separation from employment with the employing unit or employer.
- B.** The Department shall make a previously excluded party an interested party to a decision involving whether wages are usable for a claim ~~whenever~~ when the Department determines that the decision could adversely affect the excluded party.